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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re CALVIN G., a Person Coming Under
the Juvenile Court Law.

B252933
(Los Angeles County
Super. Ct. No. DK00982)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

RONALD B.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Julie F. Blackshaw, Judge. Affirmed.

Andre F. F. Toscano, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Kim Nemoy, Principal Deputy County Counsel, for Plaintiff and Respondent.

Father Ronald B. appeals from the judgment entered after the juvenile court declared his son, born July 26, 2013, a dependent of the court under Welfare and Institutions Code section 300, subdivision (b)¹, based on a jurisdictional finding against the child's mother, and made dispositional orders. Father contends the juvenile court abused its discretion by retaining jurisdiction over the matter under section 361.2, subdivision (b)(3), and ordering services for him and mother. We disagree and thus affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On November 5, 2013, mother pleaded no contest to an allegation under section 300, subdivision (b), in a petition filed by the Department of Children and Family Services (DCFS). The allegation provided that the mother "has a history of mental and emotional problems, which periodically renders the mother incapable of providing regular care and supervision of the child. On 9/13/2013, the mother was involuntarily hospitalized for the evaluation and treatment of the mother's psychiatric condition. Such mental and emotional condition on the part of the mother places the child at risk of harm." The juvenile court sustained the petition on this basis and declared the child a dependent of the court. It removed the child from mother's custody and placed him with father, who was non-offending. The court ordered monitored visits for mother, as well as enhancement services, consisting of mental health counseling with a psychological assessment, psychiatric evaluation and individual counseling. It ordered family maintenance services for father, including participation in a support group for people with family members suffering from mental illness. Father filed a timely notice of appeal. (§ 395, subd. (a)(1).)²

¹ Statutory references are to the Welfare and Institutions Code.

² Mother did not appeal and thus is not a party to this proceeding.

DISCUSSION

Father contends that the juvenile court abused its discretion by retaining jurisdiction over the matter under section 361.2, subdivision (b)(3), instead of terminating jurisdiction and awarding him full legal and physical custody of the child. We disagree.

Under section 361.2, subdivision (a), “[w]hen a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.”

Subdivision (b) of the provision provides that, “[i]f the court places the child with that parent it may do any of the following: [¶] (1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents. [¶] (2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child’s current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, nothing in this paragraph shall be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3). [¶] (3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the

parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.”

In applying section 361.2, “the Legislature envisioned a two-step process: under subdivision (a), the court examines whether it would be detrimental to temporarily place a child with the nonoffending noncustodial parent; under subdivision (b), the court decides whether that placement should be permanent and whether the court’s jurisdiction should be terminated.” (*In re Austin P.* (2004) 118 Cal.App.4th 1124, 1131; see *In re A.C.* (2008) 169 Cal.App.4th 636, 641.) The juvenile court has broad discretion when deciding between the three options in section 361.2, subdivision (b). (*In re Gabriel L.* (2009) 172 Cal.App.4th 644, 651-652; see *In re Nada R.* (2001) 89 Cal.App.4th 1166, 1179 [because § 361.2 vests the juvenile court with broad discretion in crafting a disposition in the child’s best interest, a reviewing court will not disturb the custody determination unless it exceeds the limits of legal discretion].) ““The appropriate test for abuse of discretion is whether the [juvenile] court exceeded the bounds of reason.”” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.)

In selecting the third option under section 361.2, subdivision (b), to retain jurisdiction over the matter and order services for both parents, the juvenile court concluded that it did “see a need for ongoing jurisdiction with respect to the mother’s issues. And by providing her with enhancement services, the court does believe that it’s in the child’s best interest to provide the services to the mother and hopefully achieve a situation where the child can be returned to the mother’s custody. . . .The father will receive family maintenance services. And the mother will receive enhancement services.”³

³ “Enhancement services are child welfare services offered to the parent not retaining custody, designed to enhance the child’s relationship with that parent. [Citations.]” (*Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1497, fn. 1.)

Based on the evidence, this decision was not an abuse of discretion. In August 2013, a month after the child's birth, mother was hospitalized for eight days because, in father's words, she was in a "semi-manic" state when she had custody of the child. "She was lost. She called [father]. She couldn't find her way home within miles of her house. [Father could] hear her car going full speed. She is bouncing around the city. She told [father] she was going to crash through a mountain." Father did not take custody of the child at this time. Instead, after the hospitalization, mother resumed custody of the child and shortly thereafter had a similar episode, which included the mother crashing into and running over several cones in a parking lot while driving at a high rate of speed with the child in the car, leading to another hospitalization and the filing of the instant dependency petition. Father reported that he believed mother would recover once she resumed taking her medications, which she had stopped during her pregnancy. Father appeared not to take the dependency investigator's need for information seriously when interviewed by her. In addition, issues existed between mother and a former boyfriend and between mother and father over father's wife, who lived in China but came to visit on a regular basis. Mother wanted to be able to resume care of the child, while father sought full legal and physical custody, requiring mother to seek liberalized visitation through the family law court. A dispute existed between the parents during the dependency proceedings over whether father was enabling mother to visit the child as recommended by DCFS. The juvenile court concluded that, based on mother's functional abilities while on medication and her initial care and devotion to the child, awarding her services and giving her the opportunity to reunify with the child was in the child's best interests. Under these circumstances, the court's decision to retain jurisdiction and order services for the parents was within the bounds of reason.

In re A.G. (2013) 220 Cal.App.4th 675, relied on by father, is inapposite. There, mother appealed from the judgment entered in her children's dependency proceeding after the juvenile court had sustained a petition against her under section 300, subdivision (b), based on her mental health issues. (*Id.* at pp. 678-682.) Mother challenged the jurisdictional finding, contending that, because father was non-offending,

resided with the children and always was capable for caring for them, no need existed for juvenile court jurisdiction. (*Id.* at p. 677.) We agreed, concluding that, despite mother's mental illness, DCFS was unable to show harm or a risk thereof based on her condition because "Father has shown remarkable dedication to the minors and that he is able to protect them from any harm from Mother's mental illness. Father ensured that there was adult supervision, other than Mother, of the minors at all times. Father or the nanny was the minors' primary caregiver, while Mother usually stayed in her room. . . . Mother had been left alone with the minors on one occasion, and no harm to them had been reported. Father slept in the bedroom with the minors and kept the door locked pursuant to the advice of the in-home counselor and temporarily moved out of the house with the minors to protect them from Mother." (*Id.* at p. 684.) As a result, jurisdiction was not proper, and the matter belonged in family court, "where it ultimately ended up after the juvenile court determined the minors were not at risk in Father's custody and awarded Father custody and Mother monitored visitation." (*Id.* at p. 686.) Here, neither mother nor father contested the jurisdictional finding as to mother, and, given the circumstances that led to the dependency, involving both mother's mental health condition and father's initial role as the noncustodial parent, mother's desire to resume custody over the child, the juvenile court's determination that giving mother the opportunity to reunify was in the child's best interests and the issues between the parents during the dependency proceedings, no basis exists to upset the court's discretionary decision to retain jurisdiction over the matter and order services for both parents.

DISPOSITION

The judgment is affirmed.

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ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

MILLER, J.*

* Judge of the Los Angeles Superior Court, Assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.